

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BNSF RAILWAY COMPANY,

Plaintiff,

UNION PACIFIC RAILROAD
COMPANY, and PORT OF BENTON,

Plaintiff-Intervenors,

v.

TRI-CITY & OLYMPIA RAILROAD
COMPANY LLC,

Defendant.

NO. CV-09-5062-EFS

**ORDER GRANTING THE PARTIES'
STIPULATED MOTION TO DISMISS
PLAINTIFF BNSF RAILWAY
COMPANY'S CLAIM FOR DAMAGES
AGAINST DEFENDANT TRI-CITY
RAILROAD COMPANY**

Before the Court, without oral argument, is the parties' Stipulated Motion to Dismiss Plaintiff BNSF Railway Company's Claim for Damages Against Defendant Tri-City Railroad Company, ECF No. [242](#). The parties agree that BNSF's damages claim asserted in Paragraph C of the Complaint's prayer for relief, ECF No. [1](#) at 18 ¶ C, may be dismissed without prejudice and without attorneys' fees or costs to either party. Based on this stipulation, **IT IS HEREBY ORDERED:**

1. The parties' Stipulated Motion to Dismiss Plaintiff BNSF Railway Company's Claim for Damages Against Defendant Tri-City Railroad Company, ECF No. [242](#), is **GRANTED**.

DATED this 6th day of June 2011.

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